

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 99

Introduced by Assembly Member Feuer

December 21, 2006

~~An act to add Article 7.1 (commencing with Section 43885) to Chapter 4 of Part 5 of Division 26 of the Health and Safety Code, relating to vehicular air pollution control. An act to add Article 8 (commencing with Section 43900) to Chapter 4 of Part 5 of Division 26 of the Health and Safety Code, relating to air pollution.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 99, as amended, Feuer. Vehicular air pollution control: clean alternative fuels.

(1) Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law requires the state board to establish, by regulation, various standards for gasoline and motor vehicle fuel.

Existing law requires that, not later than June 30, 2007, the State Energy Resources Conservation and Development Commission, in partnership with the state board, and in consultation with specified state agencies, develop and adopt a state plan to increase the use of alternative fuels, as defined.

This bill would require the state board, by June 30, 2009, in consultation with the State Energy Resources Conservation and Development Commission, the State Water Resources Control Board,

the Department of Food and Agriculture, and other relevant state agencies, to develop and adopt regulations that would become operative no later than January 1, 2010, that will ensure that commencing January 1, 2012, 50% of new passenger vehicles and light-duty trucks sold in California are clean alternative vehicles, as defined, and that commencing January 1, 2020, all new passenger vehicles and light-duty trucks sold in California are clean alternative vehicles. The bill would require the state board to submit a report to the Legislature on the progress passenger vehicle and light-duty truck manufacturers have made in meeting these requirements, the progress the state has made in increasing the use of alternative fuels and reducing the state's dependence on imported petroleum and petroleum fuels, and any improvements in public health and the environment attributable to the use of clean alternative fuels.

(2) Existing law generally provides that a violation of various laws, rules, and regulations relating to air pollution is a crime.

Because the bill would require the state board to adopt regulations the violation of which would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law requires the state board to establish, by regulation, various standards for gasoline and motor vehicle fuel.~~

~~This bill would make legislative findings and declarations regarding the use of clean, alternative fuels. This bill would also declare the intent of the Legislature to ensure that, by January 1, 2012, no less than 50% of all new cars made available for sale in California are powered by clean alternative fuels.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Article 8 (commencing with Section 43900) is*
2 *added to Chapter 4 of Part 5 of Division 26 of the Health and*
3 *Safety Code, to read:*

4
5 *Article 8. Clean Alternative Fuel and Clean Vehicle Act of 2007*

6
7 *43900. The Legislature finds and declares all of the following:*

8 *(a) The production, marketing, and use of petroleum fuels in*
9 *the state causes significant degradation of public health and*
10 *environmental quality due to the release of air pollution, including*
11 *emissions of greenhouse gases and water pollutants.*

12 *(b) Petroleum fuels account for more than 96 percent of*
13 *California's transportation fuel use and 41 percent of the state's*
14 *emissions of greenhouse gases.*

15 *(c) California's refineries currently import nearly 60 percent*
16 *of their petroleum. California's crude oil imports in 2004 were*
17 *nearly 400 million barrels and, in the absence of any new state*
18 *policy initiatives, would increase to more than 450 million barrels*
19 *by 2015, and more than 500 million barrels by 2025.*

20 *(d) California's refineries provide for the transportation fuel*
21 *needs of Nevada, Arizona, Oregon, and the State of Baja*
22 *California, and fuel demand is growing in these regions.*

23 *(e) Continued instability in global oil supplies and rapidly*
24 *increasing demand in China, India, and throughout the world are*
25 *likely to increase California's vulnerability to oil supply disruptions*
26 *and sudden price increases.*

27 *(f) California's petroleum import and refinery infrastructure*
28 *faces significant challenges including the inherent conflict between*
29 *the need to expand importation, refinery, and storage facilities to*
30 *meet transportation fuel demands and the environmental and social*
31 *concerns of local communities affected by these proposed*
32 *expansions.*

33 *(g) Unless the state's rapid rate of growth in oil consumption*
34 *and rising levels of consumption of imported oil and petroleum*
35 *products are stabilized and gradually reduced, California is likely*
36 *to continue to experience price spikes and supply disruptions,*
37 *which will harm the state's economy and business climate.*

1 (h) *The Energy Action Plan II, adopted by the Public Utilities*
2 *Commission and the State Energy Resources Conservation and*
3 *Development Commission (Energy Commission), includes a*
4 *loading order that describes the priority sequence for actions to*
5 *address the state's increasing electricity needs. Increasing*
6 *efficiency and renewable energy resources are top priorities in*
7 *California's electricity loading order policy, and the state should*
8 *extend these priorities to California's transportation sector by*
9 *reducing demand for petroleum fuels by increasing the use of*
10 *alternative fuels.*

11 (i) *The state must vigorously pursue strategies to increase*
12 *transportation efficiency, including increasing the number of hybrid*
13 *electric and plug-in hybrid electric vehicles, and accelerating the*
14 *development and availability of alternative fuels in order that the*
15 *full potential of any air quality and petroleum replacement benefits*
16 *can be realized.*

17 (j) *Research, development, and commercialization of alternative*
18 *fuels in the state have the potential to strengthen the state's*
19 *economy by providing job growth and helping to reduce the state's*
20 *vulnerability to petroleum price volatility. These activities will*
21 *also maintain the tradition of California leading the way in the*
22 *utilization of innovative motor vehicle technologies at the cutting*
23 *edge of implementation.*

24 (k) *Reducing petroleum use is technically feasible and*
25 *economically justifiable, because the Energy Commission and the*
26 *State Air Resources Board have previously recommended, in their*
27 *August 2003 report to the Legislature, "Reducing California's*
28 *Petroleum Dependency," that the state adopt a goal of 20 percent*
29 *nonpetroleum fuel use by 2020, and 30 percent use by 2030.*

30 (l) *Increasing the use of alternative fuels is one of the*
31 *technologically feasible and economically justifiable strategies*
32 *that can help to reduce the state's use of petroleum.*

33 (m) *The Energy Commission, in partnership with the state board,*
34 *and in consultation with the State Water Resources Control Board,*
35 *the Department of Food and Agriculture, and other relevant state*
36 *agencies has been directed to prepare a report due not later than*
37 *June 30, 2007, to be used in developing and adopting a state plan*
38 *to increase the use of alternative fuels.*

1 (n) *The Governor has directed that the state reduce the average*
2 *carbon content of the transportation fuel it uses by 10 percent by*
3 *2020.*

4 (o) *The Secretary of the California Environmental Protection*
5 *Agency has been directed to coordinate research activities between*
6 *the University of California, the Energy Commission, and other*
7 *agencies as required, to develop and propose by June 30, 2007,*
8 *a draft compliance schedule to meet the “2020 Target” set by the*
9 *Governor.*

10 (p) *The increased use of alternative fuels can help the state to*
11 *meet and even exceed its “2020 Target” for reducing the average*
12 *carbon content of the transportation fuel it uses, and help it to*
13 *further achieve its greenhouse gas reduction goals pursuant to the*
14 *California Global Warming Solutions Act of 2006 (Division 25.5*
15 *(commencing with Section 38500) of the Health and Safety Code).*

16 (q) *A major challenge for increasing the use of alternative fuels*
17 *in California is both the lack of an integrated alternative fuel*
18 *infrastructure sufficient to provide reliable fuel supplies to*
19 *California consumers, and an insufficient number of alternative*
20 *fuel vehicles necessary to facilitate the development of a healthy*
21 *and robust alternative fuels market in the state.*

22 43901. *This article shall be known, and may be cited, as the*
23 *Clean Alternative Fuel and Clean Vehicle Act of 2007.*

24 43902. (a) *For the purposes of this article, “clean alternative*
25 *fuel” means a nonpetroleum fuel including electricity, hydrogen,*
26 *natural gas, propane, and any other fuel derived from renewable*
27 *resources that, on a full fuel-cycle and energy equivalent basis,*
28 *does not increase the emissions of greenhouse gases, toxic air*
29 *contaminants, criteria air pollutants, water pollutants, or any other*
30 *substances known to damage human health or the environment,*
31 *in comparison to the production and use of a petroleum derived*
32 *fuel.*

33 (b) *“Clean alternative fuel” includes a petroleum blended fuel,*
34 *only if the fuel is blended with more than 50 percent nonpetroleum*
35 *constituents derived from renewable resources, and the fuel*
36 *achieves either of the following:*

37 (1) *Maintains or improves upon emissions reductions and air*
38 *quality benefits achieved by the California Phase 2 Reformulated*
39 *Gasoline Program as of January 1, 1999, including emissions*
40 *reductions for all pollutants and precursors identified in the State*

1 *Implementation Plan for ozone, and emissions of potency weighted*
2 *toxics compounds and particulate matter.*

3 (2) *Maintains or improves upon the emissions reductions and*
4 *air quality benefits achieved by the California diesel fuel*
5 *regulations in Article 2 (commencing with Section 2280) of Chapter*
6 *5 of Division 3 of Title 13 of the California Code of Regulations.*

7 (c) *For the purposes of this article, “clean alternative vehicle”*
8 *means any new passenger vehicle or light-duty truck certified by*
9 *the state board to run on a clean alternative fuel. Clean alternative*
10 *vehicles include, but are not limited to, the following:*

11 (1) *Hybrid vehicles.*

12 (2) *Plug-in electric hybrid vehicles with a minimum of 20 miles*
13 *all electric range or that meet minimum specifications established*
14 *by the state board.*

15 (3) *Flexible fuel vehicles (FFVs).*

16 (4) *Compressed natural gas (CNG) vehicles.*

17 (5) *Liquid propane gas (LPG) vehicles.*

18 (6) *Hydrogen fuel cell vehicles (HFCVs).*

19 43903. (a) *The state board, in consultation with the State*
20 *Energy Resources Conservation and Development Commission,*
21 *the State Water Resources Control Board, the Department of Food*
22 *and Agriculture, and other relevant state agencies shall develop,*
23 *and by June 30, 2009, adopt, regulations that shall become*
24 *operative no later than January 1, 2010, that will ensure both the*
25 *following:*

26 (1) *Commencing January 1, 2012, 50 percent of new passenger*
27 *vehicles and light-duty trucks sold in California are clean*
28 *alternative vehicles.*

29 (2) *Commencing January 1, 2020, all new passenger vehicles*
30 *and light-duty trucks sold in California are clean alternative*
31 *vehicles.*

32 (b) *In developing these regulations, the state board shall do all*
33 *of the following:*

34 (1) *Consider the technological and economic feasibility of the*
35 *regulations.*

36 (2) *Develop and enforce compliance options for eligible clean*
37 *alternative vehicles that take into account their air quality benefits,*
38 *including, toxic air contaminants, criteria air pollutants, and*
39 *greenhouse gas emissions, and take into account the likelihood*
40 *that the vehicle will actually use clean alternative fuel.*

1 (3) *Ensure, to the extent technologically and economically*
2 *feasible, that a clean alternative fuel is made available statewide*
3 *at retail outlets whenever the state board determines that a*
4 *sufficient number of motor vehicles certified by the state board to*
5 *run on that fuel has been reached.*

6 (c) *The regulations adopted pursuant to this section shall apply*
7 *only to a motor vehicle manufactured after December 31, 2010.*

8 (d) *No later than January 1, 2014, and every four years*
9 *thereafter, the state board shall submit a report to the Legislature,*
10 *produced in consultation with the State Energy Resources*
11 *Conservation and Development Commission, the State Water*
12 *Resources Control Board, the Department of Food and Agriculture,*
13 *and other relevant state agencies, detailing an assessment of the*
14 *progress passenger vehicle and light-duty truck manufacturers*
15 *have made towards meeting the requirements of subdivision (a),*
16 *the progress the state has made in increasing the use of alternative*
17 *fuels and reducing the state's dependence on imported petroleum*
18 *and petroleum fuels, and any improvements in public health and*
19 *the environment attributable to the use of clean alternative fuels.*
20 *The assessment shall take into account the state plan specified in*
21 *Section 43866.*

22 (e) *No later than January 1, 2014, and biennially thereafter,*
23 *the Department of Finance shall submit a report to the Legislature,*
24 *produced in consultation with the State Board of Equalization, the*
25 *state board, the State Energy Resources Conservation and*
26 *Development Commission, and the Department of Transportation,*
27 *detailing whether a decline in petroleum fuel tax revenue has*
28 *occurred as a direct result of the use of clean alternative fuels,*
29 *and submit recommendations within the following year on*
30 *alternatives to compensate for any decline in revenue to the*
31 *Legislative Analyst's Office and the appropriate budget, fiscal,*
32 *and policy committees of the Legislature.*

33 SEC. 2. *No reimbursement is required by this act pursuant to*
34 *Section 6 of Article XIII B of the California Constitution because*
35 *the only costs that may be incurred by a local agency or school*
36 *district will be incurred because this act creates a new crime or*
37 *infraction, eliminates a crime or infraction, or changes the penalty*
38 *for a crime or infraction, within the meaning of Section 17556 of*
39 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

3 ~~SECTION 1. Article 7.1 (commencing with Section 43885) is~~
4 ~~added to Chapter 4 of Part 5 of Division 26 of the Health and Safety~~
5 ~~Code, to read:~~

6
7 ~~Article 7.1. Foreign Oil Independence Act of 2007~~
8

9 ~~43885. (a) The Legislature finds and declares all of the~~
10 ~~following:~~

11 ~~(1) The production, marketing, and use of petroleum fuels in~~
12 ~~the state causes significant degradation of public health and~~
13 ~~environmental quality due to the release of air pollution, including~~
14 ~~greenhouse gas emissions, and water pollutants.~~

15 ~~(2) Transportation accounts for nearly half of California's total~~
16 ~~energy use. Petroleum fuels account for more than 90 percent of~~
17 ~~California's transportation fuel use.~~

18 ~~(3) Consumption of nonpetroleum fuels in California has~~
19 ~~stagnated at less than 10 percent.~~

20 ~~(4) Demand for transportation fuel has increased by nearly 50~~
21 ~~percent during the last 20 years.~~

22 ~~(5) California's crude oil production has declined by more than~~
23 ~~30 percent since 1986 and by nearly 20 percent since 1998.~~

24 ~~(6) California's refineries currently import nearly 60 percent of~~
25 ~~their petroleum. California's crude oil imports in 2004 were nearly~~
26 ~~400 million barrels and, in the absence of any new state policy~~
27 ~~initiatives, would increase to more than 450 million barrels by~~
28 ~~2015 and more than 500 million barrels by 2025.~~

29 ~~(7) California's refineries provide for the transportation fuel~~
30 ~~needs of Nevada, Arizona, Oregon, and the State of Baja California,~~
31 ~~and fuel demand is growing in these regions.~~

32 ~~(8) In the face of this increasing demand, California's refineries~~
33 ~~are not able to supply the state's increasing need for petroleum~~
34 ~~fuels. This will increase the state's dependence on imported fuels.~~

35 ~~(9) California's petroleum import and refinery infrastructure~~
36 ~~faces significant challenges including the inherent conflict between~~
37 ~~the need to expand import, refining, and storage facilities to meet~~
38 ~~transportation fuel demands and the environmental and social~~
39 ~~concerns of local communities affected by these proposed~~
40 ~~expansions.~~

1 ~~(10) Efficiency and renewable resources are top priorities in~~
2 ~~California's electricity loading order policy, and the state should~~
3 ~~extend these priorities to California's transportation sector by~~
4 ~~reducing demand for petroleum fuels by increasing the use of~~
5 ~~alternative fuels.~~

6 ~~(11) The state must vigorously pursue strategies to increase~~
7 ~~transportation efficiency, including increasing the number of hybrid~~
8 ~~electric and plug-in hybrid electric vehicles, and accelerating the~~
9 ~~development and availability of alternative fuels in order that the~~
10 ~~full potential of any air quality and petroleum replacement benefits~~
11 ~~can be realized.~~

12 ~~(12) The state must encourage the emerging nonpetroleum fuel~~
13 ~~industry as suppliers of components for blended fuels and as~~
14 ~~developers of completely nonpetroleum fuels and fueling systems.~~

15 ~~(13) The use of clean, alternative fuels has the potential to~~
16 ~~considerably reduce the impacts associated with the use of~~
17 ~~petroleum fuels, and is an important strategy for the state to attain~~
18 ~~its economic and air and water quality goals.~~

19 ~~(14) Research, development, and commercialization of~~
20 ~~alternative fuels in the state have the potential to strengthen the~~
21 ~~state's economy by providing job growth and helping to reduce~~
22 ~~the state's vulnerability to petroleum price volatility. These~~
23 ~~activities will also maintain the tradition of California leading the~~
24 ~~way in the utilization of innovative motor vehicle technologies at~~
25 ~~the cutting edge of implementation.~~

26 ~~(15) Dependence on foreign oil represents a threat to the~~
27 ~~long-term security and economic stability of California and the~~
28 ~~nation.~~

29 ~~(16) Reducing petroleum use is technically feasible and~~
30 ~~economically justifiable because the State Energy Resources~~
31 ~~Conservation and Development Commission and the state board~~
32 ~~have previously recommended, in their August 2003 report to the~~
33 ~~Legislature, "Reducing California's Petroleum Dependency," that~~
34 ~~the state adopt a goal of 20 percent nonpetroleum fuel use by 2020,~~
35 ~~and 30 percent use by 2030.~~

36 ~~(17) Increasing the use of alternative fuels is one of the~~
37 ~~technologically feasible and economically justifiable strategies~~
38 ~~that can help to reduce the state's use of petroleum.~~

39 ~~(18) A major challenge for increasing the use of alternative fuels~~
40 ~~in California is both the lack of an integrated alternative fuel~~

1 ~~infrastructure sufficient to provide reliable fuel supplies to~~
2 ~~California consumers and an insufficient number of alternative~~
3 ~~fuel vehicles necessary to facilitate the development of a healthy~~
4 ~~and robust alternative fuels market in the state.~~

5 ~~(b) Therefore, it is the intent of the Legislature to ensure that,~~
6 ~~by January 1, 2012, no less than 50 percent of all new cars made~~
7 ~~available for sale in California are powered by clean alternative~~
8 ~~fuels.~~